IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINETEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

WRIT PETITION NO : 18913 of 1993

Between:

Sri Ganapathi Raju Ramachandra Raju S/o.late Bangararaju
Sri Ramachandra Motor Transport Narsipatnam, Visakhapatnam Dist

..... PETITIONER

AND

1. Industrial Tribunal & Labour Court, Visakhapatnam
2. Sri Palepu Chidambaram S/o.Butchiraju
   Sarada Nagar Narsipatnam Visakhapatnam Dist

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or a writ particularly one in the nature of writ of certiorari after calling for the records from the 1st respondent and quash the award passed in ID.No.242/1990 Dt.31/5/1993 of the 1st respondent and pass such other order.

Counsel for the Petitioner: MR.K.SRINIVASAMURTHY

Counsel for the Respondent No.: MR.S.SRI RAM

The Court made the following :

ORDER:

This writ petition is filed assailing the award passed on 31.05.1993 in I.D. No. 242 of 1990 by the Industrial Tribunal-cum-Labour Court, Visakhapatnam.

2. The 2nd respondent raised an industrial dispute under Section 2A(2) of the I.D. Act challenging his termination from the service with effect from 27.08.1990. It is the case of the respondent No.2-employee that he was appointed as worker on 15.03.1976 under the establishment of the petitioner, who is bus owner on a salary of Rs.800/- per month. It is his further case that he was removed from service without any notice and without any valid grounds. The said dispute was resisted by the management saying that 2nd respondent left duty without any intimation and abandoned his service from 27.08.1990 and that when an employee abandoned service by himself, initiating disciplinary action by issuing notice does not arise. In this case, since the abandonment is a voluntary action of the employee, question of management issuing notice and terminating service does not arise.

3. Two witnesses were examined and Ex.W.1 was marked on behalf of the employee. On behalf of the Management one witness was examined, and Ex.M1 to Ex.M.3 were marked.

4. The learned Tribunal, after considering the matter held that since the management failed to follow the procedure under Section 23F of the Act, in terminating the services of the petitioner, directed to reinstate the respondent-employee immediately with full back wages with effect from 27.08.1990 till the date of his reinstatement @ Rs.610/- per month with attendant benefits. Aggrieved by the same the present Writ Petition has been filed.

5. The learned counsel for the petitioner-Management submits that the Award of the Tribunal is wholly illegal and without any jurisdiction and the Tribunal has committed an error appearing on the face of the record. The learned counsel for the petitioner also submits that though the plea of the Management before the Court below was that the workman was abandoned from service by himself, the said plea was not adjudicated, but proceeded on the basis that the Management has terminated his services and therefore, the award is liable to be set aside.

6. After hearing the learned counsel for the petitioner and learned counsel for the respondent No.2, I am afraid, I do not accept the contention of the learned counsel for the petitioner. While adjudicating the matter, the Tribunal recorded the finding that there is termination of service of the respondent No.2 and this Court by exercising powers under Articles 226 and 227 of Constitution of India, I cannot again re-appreciate the evidence. Therefore, it cannot be said that the findings of the Court below is without any evidence on record. Thus, I do not find any merits in this writ petition.

7. Accordingly, the writ petition is dismissed. No costs.

_____

kvrm 19-08-2004

To

1. Industrial Tribunal & Labour Court, Visakhapatnam
2. 2 CDs